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OFFICE OF THE ATTORNEY GENERAL

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April 26, 2023

Hon. Therese Wiley Dancks (*via CM/ECF filing*)  
Federal Building and U.S. Courthouse  
P.O. Box 7346  
Syracuse, NY 13261-7346

Re: *Young America's Foundation et al v. Stenger et al*  
Northern District of New York – 20-cv-822 (LEK/TWD)

Dear Judge Dancks:

This office represents Defendants John Pelletier, Brian Rose and Harvey Stenger (“State Defendants”). This letter is to request the Court’s assistance with outstanding discovery issues.

As the Court is aware, in recent months, State Defendants have conducted numerous depositions of Plaintiff representatives in this matter. Almost all of these depositions revealed further discovery which was necessary. Prompt follow-up discovery requests were made by State Defendants, as follows:

1. On January 12, 2023, the deposition of former Plaintiff BU College Republicans (“CR”) President John Restuccia was taken. During and following that deposition, numerous documents were requested.
2. On January 20, 2023, a deposition of Plaintiff Young America’s Foundation employee Raj Kanappan was taken. During and following that deposition, numerous documents were requested.
3. On March 3, 2023, Plaintiffs’ served responses to State Defendants’ follow-up demands related to the Restuccia and Kannappan depositions. As part of these demands, State Defendants requested copies of e-mails from CR members’ Binghamton.edu email accounts. (Ex. 1, ¶ 18). Plaintiff failed to provide responsive emails (*id.*). Defendants also made a request for authorizations “permitting defendants to search those email addresses for relevant emails, copies of which will be provided in full to Plaintiff’s counsel.” (*Id.*, ¶ 19). In response, Plaintiffs responded as follows: “Plaintiffs consent to (1) State Defendants drafting an authorization for each individual email address they wish to search, subject to Plaintiffs’ (or that individual’s) review and consent; (2) State Defendants producing any documents that hit on search terms to Plaintiffs for review in the first instance; (3) after which Plaintiffs will produce relevant documents, if any, to State Defendants.” (*Id.*)

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4. On March 10, 2023, the deposition of CR Vice-President Logan Blakeslee was taken. During and following that deposition, numerous documents were requested. A copy of Defendants' follow-up discovery demand, made that same day, is annexed hereto as Exhibit "2". To date, no response has been received.<sup>1</sup>
5. On March 16, 2023, the deposition of CR member/former president and former Plaintiff Jon Lizak was taken. During and following that deposition, numerous documents were requested. A copy of Defendants' follow-up discovery demand, made that same day, is annexed hereto as Exhibit "3". To date, no response has been received.<sup>2</sup>
6. On March 22, 2023, in response to Plaintiff's response to Restuccia/Kannappan Demand 19, detailed above in #1, State Defendants provided authorizations for e-mails for signature of various CR members.<sup>3</sup> A copy of that demand is annexed hereto as Exhibit "4". To date, requested authorizations have not been provided, nor has any written objection to the March 22 demand been received.
7. On March 24, 2023, the deposition of CR member Spencer Haynes was taken. During and following that deposition, numerous documents were requested. A copy of Defendants' follow-up discovery demand, made that same day, is annexed hereto as Exhibit "5". To date, no response has been received.
8. On March 28, 2023, the deposition of CR member Kyle Nelson was taken. During and following that deposition, numerous documents were requested. A copy of Defendants' follow-up discovery demand, made the next day, is annexed hereto as Exhibit "6". To date, no response has been received.
9. On March 30, 2023, the deposition of CR member Preston Scagnelli was taken. During and following that deposition, numerous documents were requested. A copy of Defendants' follow-up discovery demand, made that same day, is annexed hereto as Exhibit "7". To date, no response has been received.<sup>4</sup>
10. On April 14, 2023, Defendants made a good-faith attempt to resolve the above-referenced outstanding discovery issues by e-mail (Exhibit "8"). Although counsel for Plaintiffs indicated that some, not all, of the outstanding responses would be provided by "early next week" (i.e. early in the week of April 17), no responses have been received as of this writing.

State Defendants request the Court's assistance in resolving these outstanding discovery issues. There is currently a May 4, 2023 conference scheduled and perhaps these issues could be addressed during that conference, if not before. More than 30 days have passed since all of these demands, other than #8 and #9. The current discovery deadline is set to expire within days.

Further, the materials requested are necessary to the defense of this matter. For example, numerous CR witnesses testified that the group regularly communicated via e-mail, text and

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<sup>1</sup> Defendants waive Demand #3 of Exhibit 2, as this information has since been provided by counsel.

<sup>2</sup> Defendants waive Demand #5 of Exhibit 3, as this information has since been provided by counsel.

<sup>3</sup> At the 2.14.2023 deposition of CR member Lacey Kestecher, and the 3.23.2023 deposition of CR President Rein/Reign Bey, Defendants had requested various e-mails, and authorizations were provided for these individuals to sign as well.

<sup>4</sup> Defendants waive Demand #7 of Exhibit 7, as this information has since been provided by counsel.

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“GroupMe” chats, including as it pertained to the tabling event, Laffer event and other issues relevant to this lawsuit, and several of the witnesses testified that they still had access to those e-mail addresses, phones or social media platforms. Further, during the deposition of witness Haynes on 3.24.2023, counsel for Defendants were told for the first time that CR had pre-planned the tabling event as a “First Amendment protest”, and specifically planned to hold the event without requesting permission from the University or Student Association.

Thank you for your kind consideration to this request, and apologies for the erroneous omission of these pages.

Respectfully yours,

s/ *John F. Moore*

John F. Moore

Assistant Attorney General

Bar Roll No. 105188

cc (via ECF): All Counsel